



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/846,658 05/01/97 ADAIR

J CARP-0057

EXAMINER

HM12/0731

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WOODCOCK WASHBURN KURTZ  
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DAVIS, M

ART UNIT

PAPER NUMBER

1642

DATE MAILED:

07/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Advisory Action

Application No.

08/846,658

Applicant(s)

ADAIR et al

Examiner

Minh-Tam Davis

Art Unit

1642



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Feb 8, 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 706.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for the reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (See NOTE below);
- (b) ☐ they raise the issue of new matter. (See NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

4. ☒ Applicant's reply has overcome the following rejection(s):  
112, first paragraph
5. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):  
Claim(s) allowed: none  
Claim(s) objected to: none  
Claim(s) rejected: 24-31
9. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
11. ☐ Other: \_\_\_\_\_

Art Unit: 1642

Effective February 7, 1998, the Group Art Unit location has been changed, and the examiner of the application has been changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Minh-Tam Davis, Group Art Unit 1642.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Accordingly, claims 24-31 are being examined.

The following are the remaining rejections.

**REJECTION UNDER 35 USC 102(e)**

Rejection under 35 USC 102 (e) of claims 24-31 pertaining to anticipation by Queen et al, US PN=5,585,089 remains for reasons already of record in paper No.29.

Applicant argues that except one fortuitous paragraph in the specification of the application by Queen et al, 07/290975 (p.8, last paragraph, bridging p.9) that defines CDR's as hypervariable regions, and refers to Kabat and Chothia, the rest of the specification of 07/290975 only discloses Kabat CDRs, and that in one example, actually one amino acid in Chothia CDR's is altered.

Applicant's arguments set forth in paper No.31 have been considered but are not deemed to be persuasive for the following reasons:

Art Unit:

Since Queen et al in the specification of 07/290975 incorporate by reference the definition of CDR's by Chothia et al, in addition to the CDR's as defined by Kabat, one of ordinary skill in the art would have recognized that CDR's as taught by Queen et al would include also CDR's as defined by Chothia et al, besides CDR's as defined Kabat et al, regardless of whether the rest of the specification discloses as examples Kabat's CDR's.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Tam B. Davis whose telephone number is (703) 305-2008. The examiner can normally be reached on Monday-Friday from 9:30am to 3:30pm, except on Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Caputa, can be reached on (703) 308-3995. The fax phone number for this Group is (703) 308-4227.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0916.

Minh-Tam B. Davis

July 20, 2001

  
ANTHONY C. CAPUTA  
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